

AMENDED IN SENATE AUGUST 29, 1997

AMENDED IN SENATE JULY 22, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1296

**Introduced by Assembly Members Morrow, Mazzoni, and
Strom-Martin**

(Coauthor: Senator Thompson)

February 28, 1997

An act to amend, repeal, and add Section 115800 of the Health and Safety Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 1296, as amended, Morrow. Liability.

Existing law provides that neither public entities nor public employees are liable to any person who participates in a hazardous recreational activity. Existing law defines "hazardous recreational activities" for these purposes to include various activities.

This bill would provide that skateboarding at a public skateboard park is a hazardous recreational activity for purposes of those provisions if the person skateboarding is 14 years of age or older, the skateboarding activity was stunt, trick, or luge skateboarding, and the skateboard park is on public property, as specified. The bill would require appropriate local public agencies to maintain a record of all known or reported injuries incurred by skateboarders in a public skateboard park or facility, and other information

regarding those incidents, as specified, and would require copies of these records to be filed with the ~~Legislative Analyst's office~~ *Judicial Council* annually, beginning in 1999. By imposing additional duties on local public agencies, the bill would create a state-mandated local program. The bill would require the ~~Legislative Analyst's office~~ *Judicial Council* to submit a report to the Legislature regarding this information on or before March 31, 2000, as specified.

The bill would provide for the repeal of these provisions on January 1, 2003.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 115800 of the Health and Safety
2 Code is amended to read:
3 115800. (a) No operator of a skateboard park shall
4 permit any person to ride a skateboard therein, unless
5 that person is wearing a helmet, elbow pads, and knee
6 pads.
7 (b) With respect to any facility, owned or operated by
8 a local public agency, that is designed and maintained for
9 the purpose of recreational skateboard use, and that is not
10 supervised on a regular basis, the requirements of
11 subdivision (a) may be satisfied by compliance with the
12 following:



1 (1) Adoption by the local public agency of an
2 ordinance requiring any person riding a skateboard at the
3 facility to wear a helmet, elbow pads, and knee pads.

4 (2) The posting of signs at the facility affording
5 reasonable notice that any person riding a skateboard in
6 the facility must wear a helmet, elbow pads, and knee
7 pads, and that any person failing to do so will be subject
8 to citation under the ordinance required by paragraph
9 (1).

10 (c) “Local public agency” for purposes of this section
11 includes, but is not limited to, a city, county, or city and
12 county.

13 (d) (1) Skateboarding at any facility or park owned or
14 operated by a public entity as a public skateboard park,
15 as provided in paragraph (3), shall be deemed a
16 hazardous recreational activity within the meaning of
17 Section 831.7 of the Government Code if all of the
18 following conditions are met:

19 (A) The person skateboarding is 14 years of age or
20 older.

21 (B) The skateboarding activity that caused the injury
22 was stunt, trick, or luge skateboarding.

23 (C) The skateboard park is on public property that
24 complies with subdivision (a) or (b).

25 (2) In addition to the provisions of subdivision (c) of
26 Section 831.7 of the Government Code, nothing in this
27 section is intended to limit the liability of a public entity
28 with respect to any other duty imposed pursuant to
29 existing law, including the duty to protect against
30 dangerous conditions of public property pursuant to
31 Chapter 2 (commencing with Section 830) of Part 2 of
32 Division 3.6 of Title 1 of the Government Code.

33 (3) For public skateboard parks that were constructed
34 on or before January 1, 1998, this subdivision shall apply
35 to hazardous recreational activity injuries incurred on or
36 after January 1, 1998, and before January 1, 2001. For
37 public skateboard parks that are constructed after
38 January 1, 1998, this subdivision shall apply to hazardous
39 recreational activity injuries incurred on or after January
40 1, 1998, and before January 1, 2003. For purposes of this

1 subdivision, any skateboard facility that is a movable
2 facility shall be deemed constructed on the first date it is
3 initially made available for use at any location by the local
4 public agency.

5 (4) The appropriate local public agency shall maintain
6 a record of all known or reported injuries incurred by a
7 skateboarder in a public skateboard park or facility. The
8 local public agency shall also maintain a record of all
9 claims, paid and not paid, including any lawsuits and their
10 results, arising from those incidents that were filed
11 against the public agency. Beginning in 1999, copies of
12 these records shall be filed annually, no later than January
13 30 each year, with the ~~Legislative Analyst's office~~ *Judicial*
14 *Council*, which shall submit a report to the Legislature on
15 or before March 31, 2000, on the incidences of injuries
16 incurred, claims asserted, and the results of any lawsuit
17 filed, by persons injured while skateboarding in public
18 skateboard parks or facilities.

19 (5) This subdivision shall not apply on or after January
20 1, 2001, to public skateboard parks that were constructed
21 on or before January 1, 1998, but shall continue to apply
22 to public skateboard parks that are constructed after
23 January 1, 1998.

24 (e) This section shall remain in effect until January 1,
25 2003, and as of that date is repealed, unless a later enacted
26 statute, enacted before January 1, 2003, deletes or extends
27 that date.

28 SEC. 2. Section 115800 is added to the Health and
29 Safety Code, to read:

30 115800. (a) No operator of a skateboard park shall
31 permit any person to ride a skateboard therein, unless
32 that person is wearing a helmet, elbow pads, and knee
33 pads.

34 (b) With respect to any facility, owned or operated by
35 a local public agency, that is designed and maintained for
36 the purpose of recreational skateboard use, and that is not
37 supervised on a regular basis, the requirements of
38 subdivision (a) may be satisfied by compliance with the
39 following:

1 (1) Adoption by the local public agency of an
2 ordinance requiring any person riding a skateboard at the
3 facility to wear a helmet, elbow pads, and knee pads.

4 (2) The posting of signs at the facility affording
5 reasonable notice that any person riding a skateboard in
6 the facility must wear a helmet, elbow pads, and knee
7 pads, and that any person failing to do so will be subject
8 to citation under the ordinance required by paragraph
9 (1).

10 (c) “Local public agency” for purposes of this section
11 includes, but is not limited to, a city, county, or city and
12 county.

13 (d) This section shall become operative on January 1,
14 2003.

15 SEC. 3. Notwithstanding Section 17610 of the
16 Government Code, if the Commission on State Mandates
17 determines that this act contains costs mandated by the
18 state, reimbursement to local agencies and school
19 districts for those costs shall be made pursuant to Part 7
20 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the
22 claim for reimbursement does not exceed one million
23 dollars (\$1,000,000), reimbursement shall be made from
24 the State Mandates Claims Fund.

25 Notwithstanding Section 17580 of the Government
26 Code, unless otherwise specified, the provisions of this act
27 shall become operative on the same date that the act
28 takes effect pursuant to the California Constitution.